

May 1, 1995

DOCKET NO. E-002/AI-94-378

ORDER DENYING RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
Joel Jacobs  
Marshall Johnson  
Dee Knaak

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition for Approval of  
Power Purchase Agreement Between Northern  
States Power Company and Minnesota  
Methane, LLC

ISSUE DATE: May 1, 1995

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**PROCEDURAL HISTORY**

**I. The Original Order**

On February 1, 1995 the Commission issued an Order granting Northern States Power Company's (NSP's) petition for approval of a 20-year contract to purchase 3.2 megawatts of baseload capacity and energy from an affiliated company, Minnesota Methane, LLC. The Order limited Commission approval to approval under the affiliated interest statute.<sup>1</sup> It denied the Company's request for approval under the cogeneration and small power production statute<sup>2</sup>, finding action under that statute was required only when contracting parties were unable to agree.

The Order reserved judgment on two contract terms -- one guaranteeing contract prices for up to 1.6 megawatts of additional capacity until June 1, 1996 and the other agreeing to reopen price negotiations should the Commission establish an avoided cost for renewable resources. Those terms are subject to Commission review and approval if and when the parties propose to put them into effect.

Finally, the Commission required the Company to file documentation of the costs Minnesota Methane will incur to provide service under the contract, as required under the affiliated interest statute. Minn. Stat. § 216B.48, subd. 3.

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<sup>1</sup> Minn. Stat. § 216B.48.

<sup>2</sup> Minn. Stat. § 216B.164.

## **II. The Petition for Reconsideration**

On February 21, 1995 the Company and Minnesota Methane filed a joint petition for reconsideration of the Order's requirement to file cost documentation. They argued that cost documentation was irrelevant because the contract price (avoided cost) was not open to negotiation, but was set by statute.

The parties proposed that, instead of filing cost information, they make available for inspection data on plant performance and invoice payments from NSP to Minnesota Methane. This would allow the Commission and the Department to confirm that NSP was paying only in accordance with contract terms and was treating Minnesota Methane in the same way it treats other power suppliers.

The petition came before the Commission on April 20, 1995.

## **FINDINGS AND CONCLUSIONS**

### **III. Commission Action**

The Commission will reject the petition for the reasons set forth in the original Order and require cost documentation as required by statute.

Although the need for cost documentation may be less pressing when pricing criteria are set by statute, the need remains. As the affiliated interest statute recognizes, transactions between affiliates are never truly arms-length. They always carry risks of collusion, preferential treatment, and cross subsidization. The goal of the statute is to counteract these risks by giving the Commission the clearest possible picture of every affiliated transaction. Cost information is an essential part of that picture.

The contract at issue is a long term (20 year) contract for purchased power. The Company will rely on the contract to fulfill its duty to serve. This contract is among those least likely to require anything less than full statutory disclosure.

Furthermore, there are indications that cost information would be helpful here. For example, the contract price is less than firm. Minnesota Methane has reserved the right to renegotiate price if the Commission establishes a renewable avoided cost, and the Company has acquiesced. If, for instance, Minnesota Methane accepted an unrealistically low price in hopes of later forcing a higher one, it would be useful to know this in monitoring contract compliance.

For all these reasons, the Commission will deny the petition and require the Company to file documentation of the costs Minnesota Methane will incur to provide service under the contract.

**ORDER**

1. The Petition for Reconsideration of Northern States Power Company and Minnesota Methane, LLC is denied.
2. Within 30 days of the date of this Order the Company shall file documentation on Minnesota Methane's costs of providing service under the contract as required under Minn. Stat. § 216B.48, subd. 3.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)